

**ASSEMBLY BILL**

**No. 493**

---

**Introduced by Assembly Member Ruskin**

February 20, 2007

---

An act to add Article 3 (commencing with Section 43300) to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as introduced, Ruskin. Motor vehicle greenhouse gas emissions: incentive program.

Existing law designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020, and is required to adopt rules and regulations in an open-public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would require the state board to create and implement a clean vehicle incentive program meeting specified requirements, that would provide rebates to, and require surcharges from, purchasers of new motor vehicles based on the vehicles' greenhouse gas emissions to mitigate against emissions of greenhouse gases from motor vehicles.

The bill would create the Clean Vehicle Incentive Account to be administered by the state board in consultation with the State Board of Equalization. All funds collected from surcharges would be required

to be deposited into this account and all clean vehicle discounts would be required to be taken from the account. Moneys in the fund would be continuously appropriated to the state board to fund the clean vehicle incentive program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Article 3 (commencing with Section 43300) is added to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 3. Clean Vehicle Incentive Program

43300. The Legislature finds and declares all of the following:

(a) According to the State Energy Resources Conservation and Development Commission, the transportation sector is the largest source of greenhouse gas emissions in California.

(b) Multiple independent economic studies indicate that undertaking action to reduce greenhouse gas emissions will likely create long-term economic benefits to the state's economy.

(c) While substantial progress has been made in reducing smog-forming emissions from new motor vehicles, there remain disparities in the amount of allowable emissions of criteria pollutants among the identified categories of exhaust emissions standards for passenger vehicles and light-duty trucks sold in California.

(d) Monetary incentives can augment existing state vehicle emissions standards by encouraging automobile buyers to purchase cleaner vehicles and by encouraging manufacturers to offer more low-emitting vehicle choices to California consumers.

(e) One-time rebates on the purchase of new motor vehicles that emit low amounts of greenhouse gases are a reasonable and appropriate method to incentivize the purchase of these vehicles.

(f) One-time surcharges on the purchase of new motor vehicles that emit high amounts of greenhouse gases are a reasonable and appropriate method to disincentivize the purchase of and internalize the environmental cost to the public of these vehicles.

1 (g) The creation of a clean vehicle incentive program to reduce  
2 greenhouse gas emissions from motor vehicles is a market-based  
3 mechanism that does not create any new regulatory standard under  
4 the law.

5 (h) Recent studies authorized by the California Environmental  
6 Protection Agency and the State Energy Resources Conservation  
7 and Development Commission have found that the impact of global  
8 warming to California residents is likely to be quite severe,  
9 especially if action to curb global warming emissions is not taken.

10 43300.5. (a) It is the intent of the Legislature in enacting this  
11 article to establish a market-based clean vehicle incentive program  
12 consisting of one-time rebates and one-time surcharges on the  
13 purchase of new motor vehicles to mitigate against emissions of  
14 greenhouse gases from motor vehicles.

15 (b) It is the intent of the Legislature that this program be  
16 self-financing and not increase expenditures from or reduce  
17 revenues into the General Fund.

18 43301. For purposes of this article, the following terms have  
19 the following meanings:

20 (a) “Account” means the Clean Vehicle Incentive Account  
21 created by Section 43313.

22 (b) “Carbon dioxide equivalent” means a metric, as determined  
23 by the state board, used to compare or identify the emissions from  
24 various greenhouse gases based upon their global warming  
25 potential derived by multiplying the tons of the gas by the  
26 associated global warming potential.

27 (c) “Contributory pollutant” means an air toxic pollutant or  
28 contaminant, including, but not limited to, black carbon, carbon  
29 monoxide, and nitrous oxide, for which the state board has  
30 determined contributes to global warming.

31 (d) “Criteria air pollutant” means an air pollutant for which the  
32 United States Environmental Protection Agency has issued primary  
33 or secondary national air quality standards pursuant to Sections  
34 108 and 109 of the federal Clean Air Act (42 U.S.C. Secs. 7408  
35 and 7409), including carbon monoxide, lead, nitrogen oxides,  
36 ozone, particulate matter, and sulfur dioxide.

37 (e) “Dealer” means dealer as defined in Section 285 of the  
38 Vehicle Code.

39 (f) “Department” means the Department of Finance.

(g) “Emergency vehicle” means an authorized emergency vehicle as defined in Section 165 of the Vehicle Code.

(h) “Greenhouse gas factor” means a dollar value, as determined by the state board, assigned to carbon dioxide equivalent emissions per mile from a motor vehicle. At the discretion of the state board, this may be expressed in dollars divided by grams of carbon dioxide equivalent per mile (\$/g CO<sub>2</sub> -eq/mi).

(i) “Greenhouse gases” means carbon dioxide, hydrofluorocarbons, methane, oxides of nitrogen, perfluorocarbons, and sulfur hexafluoride, and any other gases that the state board determines contributes significantly to global warming.

(j) “Motor vehicle” and “vehicle” mean a passenger vehicle, light-duty truck, or any other vehicle that is subject to the regulations pursuant to Section 43018.5, whether or not Section 43018.5 remains in effect.

(k) “New motor vehicle” means new vehicle as defined in Section 430 of the Vehicle Code.

(l) “Program” means the Clean Vehicle Incentive Program established pursuant to this article.

(m) “Retail sale” means a retail sale as defined in Section 6007 of the Revenue and Taxation Code of a new motor vehicle.

(n) “Zero band” means that portion of a linear scale of rebates and surcharges in which vehicles are assigned neither a rebate nor a surcharge.

43302. (a) (1) Any California resident who becomes a motor vehicle owner by purchasing a new motor vehicle at a retail sale in California shall receive a clean vehicle rebate for the purchase on or after July 1, 2010, of a new motor vehicle of model year 2011 or later, determined by the state board to be eligible for a rebate in the amount assigned by the state board pursuant to regulations adopted under this article.

(2) The dealer shall clearly indicate the amount of the rebate owed to the new motor vehicle owner on the purchase receipt and contract, or lease agreement as applicable.

(3) In order to receive the rebate, the motor vehicle owner shall file a claim through the dealer at the time of purchase.

(4) The dealer shall facilitate and accept these claims from the new motor vehicle owner and shall submit these claims to the State Board of Equalization on a form prescribed by the State Board of Equalization, in a time, place, and manner determined by the State

1 Board of Equalization, that shall be accompanied by proof of  
2 vehicle purchase from the dealer. The proof of purchase shall  
3 include, at a minimum, all of the following:

- 4 (A) The date when the vehicle was purchased.
- 5 (B) The year, make, and model of the vehicle purchased.
- 6 (C) The vehicle identification number (VIN) of the vehicle.
- 7 (D) The price paid for the vehicle.

8 (5) The State Board of Equalization shall pay the rebate to the  
9 eligible new motor vehicle owner through electronic funds transfer  
10 if requested by the owner.

11 (6) No interest shall be paid on any rebate made pursuant to this  
12 article.

13 (b) (1) Except as otherwise provided for in this article, a person  
14 who becomes a motor vehicle owner by purchasing at a retail sale,  
15 on or after July 1, 2010, a new motor vehicle of model year 2011  
16 or later, determined by the state board to be subject to an emissions  
17 surcharge, shall pay the emissions surcharge in the amount  
18 determined by the state board pursuant to regulations adopted  
19 under this article.

20 (2) Dealers shall collect from the new motor vehicle owners the  
21 emission surcharge at the time of retail sale.

22 (3) Dealers shall clearly indicate the amount of the emissions  
23 surcharge paid by the new motor vehicle owner on the purchase  
24 receipt and contract, or lease agreement as applicable.

25 (4) All emissions surcharges collected by a dealer shall be owed  
26 to the state and be due and payable to the State Board of  
27 Equalization in a time, place, and manner prescribed by the State  
28 Board of Equalization.

29 43303. (a) No later than July 1, 2009, the state board, in  
30 consultation with those other agencies that the state board  
31 determines are appropriate, and after at least two public workshops,  
32 shall adopt regulations to create and implement a clean vehicle  
33 incentive program as described in this article.

34 (b) The regulations shall, consistent with Section 43304,  
35 establish a schedule of one-time clean vehicle rebates and one-time  
36 emissions surcharges for all new motor vehicles not otherwise  
37 excluded in this article.

38 (c) The schedule of rebates and surcharges shall take effect July  
39 1, 2010, and shall apply to motor vehicles with the 2011 model  
40 year and each model year thereafter.

1     43304. (a) The state board shall calculate, using a linear scale,  
2 the rebate or surcharge to be applied to any motor vehicle subject  
3 to the program based on the vehicle's emissions of greenhouse  
4 gases, compared to the greenhouse gas emissions of all vehicles  
5 of the same model year that are subject to the program.

6     (b) To calculate the rebate or surcharge pursuant to subdivision  
7 (a), the board shall determine the difference between a motor  
8 vehicle's emissions of greenhouse gases, as determined pursuant  
9 to Section 1961.1 of Title 13 of the California Code of Regulations,  
10 and the average emissions of greenhouse gases of all vehicles  
11 subject to the program, for a given model year. The difference  
12 identified for each vehicle based on emissions of greenhouse gases  
13 shall be multiplied by a greenhouse gases factor, to determine the  
14 amount of the rebate or surcharge attributed to emissions of  
15 greenhouse gases.

16     (c) The amount determined pursuant to subdivision (b) may be  
17 adjusted to account for one or both of the following, but no  
18 adjustments pursuant to this subdivision shall affect the rebate or  
19 surcharge by a factor larger than 20 percent:

20     (1) Emissions of contributory pollutants as determined by the  
21 state board.

22     (2) Emissions of criteria air pollutants based on the vehicle's  
23 criteria pollutant certification category pursuant to Section 1961  
24 of Title 13 of the California Code of Regulations.

25     (d) Based on the calculations made pursuant to subdivisions (b)  
26 and (c), the state board shall assign a rebate or surcharge to every  
27 motor vehicle subject to this program that reflects its relative  
28 emissions of greenhouse gases and, at the discretion of the board,  
29 its relative emissions of contributory pollutants or criteria air  
30 pollutants, compared to all vehicles for the same model year that  
31 are subject to the program, and subject to all of the following:

32     (1) The state board shall establish a zero band that includes the  
33 midpoint of the linear scale and includes not less than 20 percent,  
34 nor more than 25 percent, of the fleet of a given model year. Motor  
35 vehicles that fall within the zero band shall not be assigned a rebate  
36 or a surcharge.

37     (A) The zero band shall be designed, placed, and adjusted along  
38 the linear scale to ensure that vehicle buyers continue to have a  
39 variety of choices among multiple vehicle types, including light  
40 trucks, that are not assigned a surcharge.

1 (B) The state board shall consider sales-weighted data in  
2 determining the placement of the zero band.

3 (2) The maximum rebate and surcharge shall not be less than  
4 two thousand two hundred fifty dollars (\$2,250) nor more than  
5 two thousand five hundred dollars (\$2,500), and no rebate or  
6 surcharge shall exceed the amount of the sales tax on the purchase  
7 price of the motor vehicle.

8 (3) No rebate or surcharge shall be less than one hundred dollars  
9 (\$100). Motor vehicles that would otherwise be assigned a rebate  
10 or surcharge of less than one hundred dollars (\$100) shall be placed  
11 in the zero band.

12 (4) The state board may round up or down the assigned rebate  
13 and surcharge amounts to the nearest twenty-five dollars (\$25) for  
14 each vehicle.

15 (e) When setting the schedule of rebates and surcharges for  
16 vehicles of a given model year, the state board shall consider  
17 previous years sales data and projected sales of motor vehicles in  
18 order to ensure that the program will incentivize reductions in  
19 greenhouse gas emissions and be self-financing.

20 43305. (a) The schedule of rebates and surcharges shall be  
21 designed to ensure that the program will be self-financing and will  
22 generate adequate revenues to do all the following:

23 (1) Fund the cost of all rebates and surcharge refunds associated  
24 with the program.

25 (2) Fund all administrative costs associated with the program.

26 (3) Provide for a reserve within the program equal to  
27 approximately 15 percent of estimated rebates to ensure the  
28 account, to the extent possible, will have a positive balance at the  
29 end of each fiscal year.

30 (b) If the department determines that the amount of the reserve  
31 specified in paragraph (3) of subdivision (a) is either excessive or  
32 inadequate at the 15-percent level to meet the requirements of  
33 paragraphs (1) and (2) of subdivision (a), it may direct the state  
34 board to reduce or increase the size of the reserve in a manner to  
35 be determined by the state board.

36 (c) Once the schedule of rebates and surcharges are set for  
37 vehicles in a specified model year, the schedule may be adjusted  
38 no more than once per model year to meet the requirements of this  
39 section. Any adjustments pursuant to this section shall become  
40 operative on the first day of the first month that commences at

1 least 90 days after the state board formally adopts the adjustment  
2 to the schedule.

3 (d) The state board shall make annual or biennial adjustments  
4 to the schedule of surcharges and rebates, and the placement of  
5 the zero band, based on recent and anticipated changes in motor  
6 vehicle sales to ensure that the program continues to generate  
7 adequate revenues to meet the requirements of subdivision (a).

8 43306. (a) The schedule of rebates and surcharges, as adjusted  
9 annually or biennially, shall take effect no earlier than July 1 of  
10 each subsequent year, and be applied to new vehicles of the next  
11 model year accordingly. The state board may make adjustments  
12 biennially only if the state board finds that biennial adjustments  
13 meet both of the following criteria:

14 (1) The state board determines that the program will remain  
15 self-financing and is not in jeopardy of running a deficit.

16 (2) The state board determines that it is in the best interests of  
17 achieving the goals of the program to not make adjustments more  
18 often than once every two years.

19 (b) In the first year of the program, the state board, in  
20 consultation with the State Board of Equalization, may delay  
21 implementation of the rebate eligibility for up to 30 days after the  
22 surcharges initially take effect in order to ensure that adequate  
23 funds are available to fund the program's rebates.

24 43307. The rebates and surcharges adopted by the state board  
25 shall be assigned to the price of the motor vehicle after applicable  
26 taxes have been added. Sales taxes shall not have an effect on the  
27 assigned rebate or surcharge.

28 43308. (a) Any California resident who purchases a new motor  
29 vehicle outside of the state that would otherwise have been subject  
30 to an emissions surcharge shall pay the surcharge when the resident  
31 returns to California with the vehicle within 90 days and registers  
32 or is required to register the motor vehicle.

33 (b) The surcharge shall be paid to the Department of Motor  
34 Vehicles at the time of the vehicle's initial registration. The state  
35 board, the State Board of Equalization, and the Department of  
36 Motor Vehicles shall cooperate to develop procedures to implement  
37 this subdivision.

38 (c) Vehicles purchased outside of California shall not be eligible  
39 for a rebate.



1     43309. (a) Any California resident who leases from a dealer  
2 a new motor vehicle, otherwise subject to an emissions surcharge,  
3 for a term of one year or more, shall be assessed and shall pay the  
4 surcharge, but may amortize the surcharge over the life of the  
5 lease.

6     (b) Any California resident who leases from a dealer a new  
7 motor vehicle, otherwise subject to a rebate, for a term of one year  
8 or more shall qualify for and receive the rebate

9     43310. (a) The State Board of Equalization shall collect all  
10 surcharges and pay all rebates and refunds of surcharges pursuant  
11 to the Fee Collection Procedures Law (Part 30 (commencing with  
12 Section 55001) of Division 2 of the Revenue and Taxation Code).  
13 For purposes of this article, “feepayer” shall include a motor  
14 vehicle owner or dealer as applicable.

15     (b) For purposes of this article, refunds and surcharges shall be  
16 treated the same as refunds under Chapter 5 (commencing with  
17 Section 55221) of Part 30 of Division 2 of the Revenue and  
18 Taxation Code.

19     43311. (a) Not later than May 1, 2010, the state board shall  
20 make available to the public, including on the state board’s Internet  
21 Web site, the schedule of rebates and surcharges applicable in the  
22 fiscal year following their publication. The updated schedule shall  
23 be made available to the public at the time when it is updated.

24     (b) The state board shall disseminate information to dealers and  
25 consumers about the program, including, but not limited to, all of  
26 the following:

27     (1) The state board shall notify licensed dealers about relevant  
28 details of the program, including identifying, to the extent feasible,  
29 motor vehicles that are exempt from the program pursuant to  
30 Section 43312 and providing reasonable assistance to help motor  
31 vehicle dealers carry out the program.

32     (2) The state board may modify the air pollution label that is  
33 required to be displayed on new motor vehicles sold in the state  
34 pursuant to Section 43200.1, to include specific information on  
35 the applicable clean vehicle rebate or emissions surcharge imposed  
36 pursuant to this article.

37     (c) Dealers shall be required to clearly display the amount of  
38 the assigned rebate or surcharge for each new motor vehicle  
39 available for sale at the dealership.

1     43312. (a) Notwithstanding any other provision of this article,  
2 a new motor vehicle owner shall be refunded the surcharge that  
3 would otherwise be applicable to his or her motor vehicle if that  
4 motor vehicle is in any of the following categories:

5     (1) Emergency vehicles purchased by any local jurisdiction,  
6 county agency, or municipality.

7     (2) Motor vehicles purchased or leased by a microbusiness, as  
8 defined in Section 14837 of the Government Code, for identified  
9 work-related purposes to be determined by the state board in  
10 regulations adopted pursuant to this article.

11     (3) Paratransit and other motor vehicles designed or modified  
12 specifically for the purpose of transporting disabled persons.

13     (4) Motor vehicles purchased by the state for use in official state  
14 business, except that vehicles purchased or leased for Members  
15 of the Legislature shall be subject to the surcharge.

16     (5) Motor vehicles purchased or leased by very low income  
17 residents of the state, to be defined by the state board in regulations  
18 adopted pursuant to this article.

19     (b) Notwithstanding any other provision of this article, motor  
20 vehicles that meet both of the following conditions are exempt  
21 from this article and shall be identified by the state board pursuant  
22 to paragraph (1) of subdivision (b) of Section 43311:

23     (1) The motor vehicle's primary exhaust is identified by the  
24 Office of Environmental Health Hazard Assessment as a chemical  
25 that causes cancer.

26     (2) The motor vehicle is not subject to a state-mandated  
27 inspection and maintenance program.

28     (c) If a motor vehicle is not identified as an exempt vehicle by  
29 the state board pursuant to this section, but the purchaser of the  
30 vehicle believes that he or she qualifies for an exemption pursuant  
31 to this section, the purchaser shall pay the surcharge at the time of  
32 sale as required by the article, and shall submit an application to  
33 the state board certifying that the vehicle qualifies for the  
34 exemption. The state board shall notify the applicant within 60  
35 days of receipt of the application of its determination of whether  
36 an exemption will be granted. If the state board determines that  
37 the vehicle owner qualifies for an exemption from the surcharge  
38 pursuant to this section, the state board shall reimburse the  
39 applicant for the value of the surcharge from the account.

1 (d) The state board shall prepare and make available to dealers  
2 and the public, including on the state board's Internet Web site,  
3 an application for use by motor vehicle purchasers seeking  
4 reimbursement for a surcharge paid for an exempt vehicle pursuant  
5 to subdivision (c). The application shall provide the opportunity  
6 for the purchaser to demonstrate that a vehicle or vehicle purchaser,  
7 as applicable, qualifies for an exemption, specify the period of  
8 time within which the purchaser must apply for reimbursement,  
9 and provide reasonable means for the applicant to challenge the  
10 state board's finding if it determines that a vehicle does not qualify  
11 for an exemption.

12 43313. (a) The Clean Vehicle Incentive Account is hereby  
13 created to be administered by the state board in consultation with  
14 the State Board of Equalization. All emissions surcharges collected  
15 pursuant to this article shall be deposited into the account. Moneys  
16 in the account are continuously appropriated without regard to  
17 fiscal year to pay for all of the following:

18 (1) Clean vehicle rebates.

19 (2) Refunds of emissions surcharges as allowed for in this  
20 article.

21 (3) Reimbursing the State Board of Equalization for its  
22 administrative costs of carrying out its responsibilities pursuant to  
23 this article.

24 (4) Administrative costs of the state board for carrying out its  
25 responsibilities pursuant to this article.

26 (5) Reimbursing the Department of Motor Vehicles for costs  
27 incurred due to carrying out responsibilities pursuant to Section  
28 43308.

29 (b) For the initial implementation of this article, the Director of  
30 Finance is authorized to transfer, as a loan, up to nine hundred  
31 thousand dollars (\$900,000) from the Motor Vehicle Account in  
32 the State Transportation Fund into the account. This shall be repaid  
33 with interest from the account.

34 43314. The state board may regularly collect from motor  
35 vehicle manufacturers adequate data to calculate a vehicle's  
36 emissions of greenhouse gases to carry out the provisions of this  
37 article. This article does not require the board to conduct additional  
38 vehicle testing to make the determinations required by this article.

39 43315. In adopting regulations pursuant to subdivisions (a)  
40 and (b) of Section 43303, the state board shall determine a manner

1 to account for vehicles that run on an alternative fuel as defined  
2 in Section 43867. The state board shall consider upstream  
3 emissions, as defined in paragraph (2) of subdivision (h) of Section  
4 43200.1, in the development of these regulations.

5 43316. (a) This article does not conflict with or supersede any  
6 provision of Division 25.5 (commencing with Section 38500).  
7 This article does not limit the state board in implementing Division  
8 25.5 (commencing with Section 38500).

9 (b) Enactment of this article shall not be construed to, or be  
10 deemed in, conflict with Section 38597.